



City of Lowell - Law Department

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August 9, 2019

City Manager Eileen M. Donoghue
Mayor William J. Samaras
and
Members of the City Council

Dear Manager Donoghue, Mayor Samaras and Members of the City Council:

Attached is an update from Ryan Wynn on behalf of the License Commission regarding allegations of misconduct against licensee LD Holdings, LLC d/b/a Bar 74 Lounge & Grill.

This communication is in response to Bar 74's pending application before this Council for sidewalk seating.

Very truly yours,

Christine P. O'Connor
City Solicitor

CPO/cbg
Attachment

Memorandum

To: Christine O'Connor
City Solicitor

From: Ryan Wynn
Executive Secretary-License

Date: August 8, 2019, amended August 9, 2019

Re: License Commission decision for LD Holdings, LLC, d/b/a Bar 74 Lounge & Grill,
[All alcohol beverages] restaurant licensee at 76-78 Merrimack St.

Please be advised that the License Commission at the regular meeting held on July 25, 2019 opened a hearing on allegations of misconduct as charged by Raymond Kelly Richardson, Superintendent of Police, against the licensee LD Holdings doing business as Bar 74. At the conclusion of the hearing, the Commission found Bar 74 to be in violation of License Commission regulation(s) –

2.01 Hours of Operation: The licensee must, at all times, comply with the established hours of operation for their license. The hours of an establishment shall be fixed by the local licensing authority either generally or specifically for each license. The licensing authority shall not decrease the hours of a license until after a public hearing concerning the public need, pursuant to M.G.L. c. 138 s. 12.

4.02 Hours of Operation: Unless specified otherwise on a license, hours of operation shall be Monday through Saturday from opening time at 8:00 a.m. to closing time at 2:00 a.m.; Sundays, Memorial Day, and Christmas Day from opening time at 11:00 a.m. to closing time at 2:00 a.m. A patron of a hotel who is not registered to occupy a private room, or a patron of a restaurant or tavern, or a club member and his/her guest(s) shall not be permitted to be on the licensed premises after the legal closing time for the sale and service of alcoholic beverages to the next legal opening time for the sale and service of same.

The Commission found the testimony of the Lowell Police Officers to be credible, and as a result, nine (9) individuals were on the licensed premises at Bar 74 after 2:00 a.m. who were identified as patrons of the establishment, not as employees of said licensee. The police did not see alcohol beverages being consumed by patrons or any open containers of alcohol beverages, e.g. open bottles/cans of beer.

The Commission voted to suspend the license of Bar 74 for alcohol beverages restaurant for three (3) days, and to hold in abeyance two (2) days of said suspension for one (1) year [July 25, 2020]. Bar 74 is to close one (1) day from 8:00 a.m. Friday, August 30th to 2:00 a.m. Saturday, August 31, 2019. The manager of record has been ordered to surrender the Bar 74 alcohol beverages restaurant license on Friday, August 30, 2019 at 9:00 a.m. to the Commission's

Executive Secretary in the Law Department, 3rd floor, City Hall. The license will be available to the manager of record for pick-up at the front desk of the Lowell Police Station, 50 Arcand Drive, on Saturday, August 31, 2019 at 8:00 a.m.

The decision of the License Commission has been appealed by legal counsel for LD Holdings, LLC to the Massachusetts Alcoholic Beverages Control Commission [ABCC] in accordance with Mass. General Law Chapter 138, section 67. On August 2, 2019, the ABCC sent written notice that the hearing for LD Holdings appeal is scheduled for September 12, 2019. Legal counsel for the licensee is now requesting a "stay" of the suspension pending the hearing on the appeal by the ABCC, and a subsequent decision by said Commission.

The License Commission, after voting at the regular meeting on August 8, 2019 to enter executive session, approved a "stay" as requested.

Thank you for your review and consideration of the information herein.